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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,514	04/27/2006	William Wesley Martin	UDL36.003APC	8646
20995	7590	07/02/2008		
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER LE, DAVID D	
			ART UNIT 3681	PAPER NUMBER
			NOTIFICATION DATE 07/02/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/563,514	<b>Applicant(s)</b> MARTIN, WILLIAM WESLEY	
	<b>Examiner</b> David D. Le	<b>Art Unit</b> 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/27/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This is the first Office action on the merits of Application No. 10/563,514, filed on 27 April 2006. Claims 1-31 are pending.

### **Documents**

2. The following documents have been received and filed as part of the patent application:
  - Copies of Foreign Priority Documents, received on 01/05/06
  - Declaration and Power of Attorney, received on 04/27/06
  - Information Disclosure Statement, received on 04/27/06

### ***Information Disclosure Statement***

3. The information disclosure statement filed on 27 April 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document. A legible copy of reference DE 198 35 334A has not been submitted; and therefore, its content referred to therein has not been considered.

### ***Specification***

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the

computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because it contains legal phraseology, "means". Correction is required. See MPEP § 1826.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 1-21 and 23-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

#### **Claim 1:**

- Lines 6-7 recite the limitation "a known relationship between the gear ratios". It is unclear what known relationship between the gear ratios that the claim is referring to.

Claim 3:

- Line 2 recites the limitation "the rate of change of torque". There is insufficient antecedent basis for this limitation in the claim.

Claim 5:

- Lines 2-3 recite the limitation "the speed of a drive source". There is insufficient antecedent basis for this limitation in the claim.

Claim 6:

- Line 2 recites the limitation "the magnitude of torque". There is insufficient antecedent basis for this limitation in the claim.

Claim 8:

- Line 2 recites the limitation "the position". There is insufficient antecedent basis for this limitation in the claim.

Claim 10:

- Line 2 recites the limitation "the difference". There is insufficient antecedent basis for this limitation in the claim.

Claim 12:

- Line 2 recites the limitation "the amount of torsional deformation". There is insufficient antecedent basis for this limitation in the claim.

Claim 13:

- Line 2 recites the limitation "the direction of torque". There is insufficient antecedent basis for this limitation in the claim.

Claim 17:

- Line 2 recites the limitation "the amount of strain in the component". There is insufficient antecedent basis for this limitation in the claim.

Claim 19:

- Line 6 recites the limitation "a known relationship between the gear ratios". It is unclear what known relationship between the gear ratios that the claim is referring to.

Claim 20:

- Line 2 recites the limitation "the rate of change of torque". There is insufficient antecedent basis for this limitation in the claim.

Claim 21:

- Line 2 recites the limitation "the amount of torque". There is insufficient antecedent basis for this limitation in the claim.

Claim 23:

- Lines 7-8 recite the limitation "a known relationship between the gear ratios". It is unclear what known relationship between the gear ratios that the claim is referring to.

Claim 24:

- Claim 24 is dependent upon itself; and therefore, the scopes of claims 24 as well as claims 25-31, which are dependent upon claim 24, have not been considered.

Claim 25:

- Line 1 recites the limitation "the rate of change of torque". There is insufficient antecedent basis for this limitation in the claim.

Claim 26:

- Line 2 recites the limitation "the speed of a drive source". There is insufficient antecedent basis for this limitation in the claim.

Claim 29:

- Line 2 recites the limitation "the amount of torsional deformation". There is insufficient antecedent basis for this limitation in the claim.

Claim 30:

- Lines 1-2 recite the limitation "the direction of torque". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-23, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent No. 5,767,420 to De Schepper et al. (hereinafter referred to as De Schepper).**

Claims 1-23:

De Schepper (i.e., Figs. 1-16; column 1, line 36 – column 7, line 36) discloses a torque detecting device comprising:

- A transmission (i.e., Fig. 10);
- A plurality of gear ratios (i.e., Fig. 11);



- Selector means (i.e., Figs. 10 and 11, being the clutches and brakes) for selectively engaging the gear ratios;
- A control system (i.e., Fig. 1) including means for measuring deformation (i.e., Fig. 1, element 3) caused by torque in the transmission that is deformed due to torque (i.e., column 2, line 45 - column 4, line 18);
- Means for controlling the torque (i.e., Fig. 1, element 50) in the transmission;
- Wherein the control system is arranged to measure deformation and to adjust the torque in the transmission according to the measured deformation and the gear ratios (i.e., column 2, line 45 – column 7, line 36);
- Wherein the means for controlling torque in the transmission includes a clutch means (i.e., Fig. 1);
- Wherein the means for controlling torque in the transmission includes means for controlling a speed of a drive source (i.e., column 2, line 45 – column 7, line 36);
- Wherein the control system includes means for calculating the magnitude of torque in the transmission system (i.e., column 2, line 45 – column 7, line 36);
- Wherein the control system includes estimating means for estimating torque in the transmission when the selector means engages an unengaged gear ratio (i.e., column 2, line 45 – column 7, line 36);
- Sensor means (i.e., Fig. 1, element 4) for sensing a position of the selector means; and
- Wherein the control system includes at least one means for measuring engine speed (i.e., column 6, lines 49-55).

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Otto et al. (U. S. Patent No. 6,986,289) teaches a torque-detecting arrangement, as shown in Fig. 1.
- Okada et al. (U. S. Patent Application Publication No. US 2003/0171186 A1) teaches a method and system for controlling creep in automatic transmission having a means for measuring deformation caused by torque.
- Chang et al. (U. S. Patent No. 6,505,504) teaches a method and device for a real time measurement of output torque of an automobile engine, as shown in Fig. 1.
- Obayashi et al. (U. S. Patent No. 4,592,241) teaches a torque detector, as shown in Fig. 1.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0900-1730).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3681

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David D. Le/  
Primary Examiner, Art Unit 3681  
06/27/2008

ddl